

Publications

EEOC Focuses on Anti-American Discrimination

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On November 19, 2025, the U.S. Equal Employment Opportunity Commission (EEOC) published guidance, *Discrimination Against American Workers Is Against the Law*, highlighting the EEOC's increased focus on preventing discrimination based on national origin. The **guidance** follows the U.S. Department of Labor's (DOL) announcement of "Project Firewall."

Project Firewall

On September 19, 2025, the DOL announced **Project Firewall**, which is an H-1B enforcement initiative designed to protect "the rights, wages, and job opportunities of highly skilled American workers" and ensure employer compliance with the H-1B visa process. The DOL will lead Project Firewall, with support from the Department of Justice, the EEOC, and U.S. Citizenship and Immigration Services.

EEOC Guidance

Title VII of the Civil Rights Act prohibits discrimination against a job applicant or employee on the basis of national origin. Discrimination based on national origin includes, but is not limited to, treating job applicants or employees favorably or unfavorably because they are from a particular country or part of the world. EEOC Chair Andrea Lucas believes "unlawful bias against American workers" is "a large-scale problem in multiple industries nationwide." The EEOC's one-page guidance provides examples of discriminatory actions motivated by the job applicant or employee's national origin:

- Job postings that express employer preference for candidates from a specific country or with a particular visa status (for example, "H-1B preferred").
- Terminating American workers who are on the "bench" between job assignments at a higher rate than visa holding employees.
- Requiring American workers to participate in more burdensome job application processes compared to H-1B visa holders during the PERM labor certificate process.

- Subjecting an employee to harassment based on national origin by unwelcome remarks or conduct.
- Retaliating against an employee who engaged in protected activity under Title VII, like objecting to or opposing national origin discrimination at work, participating in employer or EEOC investigations, or filing an EEOC charge.

The EEOC states that customer or client preference, lower labor costs, and beliefs that employees from a particular national origin are better workers does not justify a decision to hire foreign workers over American workers.

Takeaways for Employers

Employers should review job postings, hiring practices, and internal policies to ensure compliance with Title VII (and similar state law) requirements.